



Virginia
Regulatory
Town Hall

Notice of Intended Regulatory Action
Agency Background Document

Agency Name:	Department of Motor Vehicles
VAC Chapter Number:	20
Regulation Title:	Class B Commercial Driver Training School Regulations
Action Title:	Pre-NOIRA Review
Date:	01 March 2001

This information is required prior to the submission to the Registrar of Regulations of a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B). Please refer to Executive Order Twenty-Five (98) and Executive Order Fifty-Eight (99) for more information.

Purpose

Please describe the subject matter and intent of the planned regulation. This description should include a brief explanation of the need for and the goals of the new or amended regulation.

The purpose of the regulation is to provide appropriate oversight over the commercial driver training schools that are issued Class B licenses by the Department of Motor Vehicles (DMV). A Class B licensed school provides training in the operation of any type of motor vehicle other than commercial motor vehicles as defined in § 46.2-341.4 of the Code of Virginia. The need for this oversight is statutorily mandated and more critical now than ever before.

Driver education is required for driver's license applicants in Virginia under 19 years of age as well as for many older adult applicants. Some individuals receive the required driver training in local high schools. However, many also receive all or a portion of their required driver education through licensed commercial driver training schools.

The role of Class B commercial driver training schools in training people to safely operate a motor vehicle has been steadily increasing. At the present time, there are 139 Class B schools licensed by DMV. This is an increase of more than 100 percent since 1982, when there were 68 Class B licensed schools. These schools currently employ more than 390 licensed instructors.

Through this regulation, DMV's oversight activities are intended to ensure that graduates of these schools are adequately prepared to safely and independently operate an automobile on the public roadways after obtaining a driver's license. The goals of the proposed regulation are to:

- Strengthen certain DMV training school standards and develop additional standards to ensure that the instruction provided by Class B commercial driver training schools is uniform and meets the requirements established in State law and in the Department of Education's Curriculum Guide for Driver Education in Virginia;
- Strengthen certain components of DMV's oversight process to ensure that reviews of training documentation are consistent, evaluation of school curriculums are expanded, and audits of commercial schools' vehicles are more comprehensive; and
- Implement additional changes intended to ensure that consistently high quality instruction is provided across the commercial driver training school system and that the learning environment for younger students is safe, secure and peer-oriented.

Basis

Please identify the state and/or federal source of legal authority to promulgate the contemplated regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. The correlation between the proposed regulatory action and the legal authority identified above should be explained. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided.

The statutory authority for promulgating the amendments to these regulations is Va. Code §§ 46.2-203 and 46.2-1703. The scope of the regulatory authority is general in § 46.2-203 and specific in § 46.2-1703. Va. Code § 46.2-203 allows for the Department of Motor Vehicles to "adopt reasonable administrative regulations necessary to carry out the laws" it administers and may designate other agencies of the Commonwealth to enforce them. Va. Code § 46.2-1703 allows the Commissioner to "promulgate regulations necessary to enforce [and carry out] the provisions of [the commercial driver training school statutes and] to provide adequate training for [commercial driver training school] students.... These regulations shall include but need not be limited to curriculum requirements, contractual arrangements with students, obligations to students, facilities and equipment, qualifications of instructors, and financial stability of schools." In both cases, the rulemaking authority is discretionary.

Substance

Please detail any changes that would be implemented: this discussion should include a summary of the proposed regulatory action where a new regulation is being promulgated; where existing provisions of a regulation are being amended, the statement should explain how the existing regulation will be changed. The statement should set forth the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of citizens. In addition, a statement delineating any potential issues that may need to be addressed as the regulation is developed shall be supplied.

The proposed regulation will establish and maintain an oversight process that ensures services provided by commercial driver training schools are uniform and of high quality. These oversight activities are intended to ensure that graduates of these schools are adequately prepared to safely and independently operate an automobile on the public roadways after obtaining a driver's license. DMV's oversight activities also will help provide for a safer, more secure and peer-oriented learning environment for those younger students attending these schools.

Perhaps the most important element to preparing students to drive safely is the in-car training they receive. To enable DMV to properly verify that the required types and amount of in-car training are being provided to students under 19 years of age, the standard for training documentation should require information on the type of training provided and the skills covered during the session. Training also should be with other students in the same age group.

Instructor requirements also should be expanded to help ensure safe, qualified instruction. DMV currently has a number of requirements that instructors must meet in order to be licensed to teach in a commercial driver training school. DMV has identified ways to enhance the current requirements to provide additional safeguards for students. These enhancements include: (1) requiring a State Police criminal background check instead of a local police department criminal background check, (2) increasing the scope of the criminal convictions that could enable DMV to refuse to approve a license, and (3) revising the requirements related to demerit points for traffic infractions.

Insight into the operations and instructional practices of commercial driver training schools statewide is provided primarily through the oversight activities of DMV. Areas that DMV believes need regulatory enhancements include the review of the schools' classroom and in-car instructional programs, vehicle inspections, and the use of monitoring visits between annual audits for selected schools.

Poorly trained drivers only add to the increasing number of possible safety concerns faced by drivers when they take to the highways. In today's burgeoning transportation system, the safer each driver operates their vehicle, the safer the roads are for everyone. Since a significantly larger group of people is receiving their driver training from commercial driver training schools, the regulation of these schools is essential to protect the public's health, safety and welfare.

Although other issues are expected to arise in the promulgation of this regulation, DMV expects that the main issues that may need to be addressed will be (i) the impact of the sanctions being proposed under the amended regulation, and (ii) the perceived differences in public and private sector instructor standards.

Alternatives

Please describe, to the extent known, the specific alternatives to the proposal that have been considered or will be considered to meet the essential purpose of the action.

DMV has statutory responsibility for oversight of commercial driver training schools. This oversight is accomplished primarily through three mechanisms: regulations governing the operation of commercial driver training schools, a school and instructor licensing process to verify compliance with applicable standards at the time of licensing, and systematic audits of the schools for

compliance with the promulgated regulations. The guiding mechanism for this oversight process is the regulations governing the operation of commercial driver training schools.

DMV believes the proposed regulation is currently the only approach to take in order to maintain the most effective safeguards for the citizens of the Commonwealth and provide for the least intrusive and least burdensome means of achieving this purpose. Making specific, detailed changes in statute is unwanted and unnecessary since DMV's regulatory authority in this area has already been established. Guidelines would have much the same effect as regulations, but would require legislative changes in order to be as effective as the proposed regulation.

The Joint Legislative Audit and Review Commission (JLARC) recently issued a report pertaining to the oversight of commercial driver training schools. This report included a number of recommendations that support DMV's proposed regulation.

Perhaps the greatest benefit of the proposed regulation is the review process associated with its promulgation. Owners of commercial driver training schools, their instructors, their students and other interested parties will have ample time and opportunity to review and comment on the proposed regulation. DMV plans to hold public hearings as well. Should other alternatives become effectively available in the future, DMV will consider them in light of the proposed regulation to determine the most effective, least intrusive and least burdensome means of achieving its purpose.

Family Impact Statement

Please provide a preliminary analysis of the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

This proposed regulatory activity is expected to enhance the institution of the family and generally improve family stability. In general, parents will be able to have a better comfort level about sending their children to safer, more secure and peer-oriented driving schools. Students should feel better about these enhancements as well. The regulation will strengthen the authority and rights of parents by improving their means and opportunities to educate their children about safe driving techniques at commercial driver training schools. This safe driver education will, in part, help encourage economic self-sufficiency and allow for participants in these commercial driver training school programs to assume greater responsibility for themselves, their families and their communities.

Overall, impacts on marital commitment are expected to be minimal. However, under certain circumstances, a strengthening of those commitments could result from the positive impacts of these programs on their participants and their parents. Maintaining a well trained, safe driving population should decrease automobile accidents, which, in turn, should decrease the overall costs to families and society as a whole that are associated with automobile accidents and injuries. Lower overall costs associated with automobile accidents and injuries should be expected to at least minimally increase disposable family incomes throughout the Commonwealth.